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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,256	10/18/2001	Ray D. Odom	27147	7254

7590 07/25/2003

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EXAMINER
GRAHAM, MARK S

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/982,256	ODOM, RAY D.
	Examiner	Art Unit
	Mark S. Graham	3711

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 July 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-13,15-22,24-31 and 33-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 6-13, 15-22, 24-31, 33-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-13, 15-22, 24-31, 33-36, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusnak in view of Elings and Curchod.

Rusnak discloses the claimed apparatus and method with the exception of the manner in which the virtual golf ball is created. However, as disclosed by Rusnak other means may be used to create the golf ball. Elings discloses such a means for creating virtual objects. In view of Rusnak's teaching it would have been obvious to have used Elings device to create the golf ball. Regarding the ball position, it is known in the art as disclosed by Curchod, to provide a movable tee so that the position of the ball on such training devices may be adjusted. It would have been obvious to one of ordinary skill in the art to have provided the same for the Rusnak/Eling device in the same manner to provide for different golf ball settings on the turf.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 28 above, and further in view of Lederer. Claim 37 is obviated for the reasons explained above with the exception of the adjustably connected standing surface. However, as disclosed by Lederer such are known in the art. It would have been obvious to one of ordinary skill in the art to have included such with Rusnak's device as well for its inherent purpose.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 28 above, and further in view of Pelz. As disclosed by Pelz it is known in the art to provide devices such as Rusnak's with wheels and handles for purposes of transportation. It

would have been obvious to one of ordinary skill in the art to have included such on Rusnak's device for the same reason.

In response to applicant's arguments, there is clearly a suggestion to combine the references as pointed out in the previous action. Regarding applicant's further arguments on the point, the examiner disagrees with applicant's assessment of the "captive or dummy" language. Rusnak gives one further example of a "captive" ball and no examples of a "dummy" ball. There is nothing to suggest that such balls be limited to physical objects and Rusnak clearly discloses a virtual ball indicating that such are within the realm of objects to be considered by the ordinarily skilled artisan practicing Rusnak's invention.

Applicant's comments regarding a "real" image are noted but this is exactly what Elings teaches. In either instance, Rusnak or Elings, a virtual ball is produced which is the point of the rejection. The examiner has not asserted that the method of production of such a ball is the same in both references. If such were the case Rusnak would be a proper reference under 35 U.S.C. 102(b).

Finally, regarding the changeable position of the ball, the examiner has not relied on Rusnak or Elings, but rather Curchod. Obviously, because different golfers prefer the ball at different heights some provision such as taught by Curchod would have to be present to allow for these preferences.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
7/21/03

Mark S. Graham
Primary Examiner